

CORPORATION OF THE CITY OF WELLAND

AMENDED AND RESTATED, 2011

SHAREHOLDER DECLARATION

WHEREAS Welland Hydro-Electric Holding Corp. (the “**Corporation**”) is a corporation existing under the *Business Corporations Act* (Ontario);

AND WHEREAS the Corporation of the City of Welland (the “**Shareholder**”) is the beneficial owner of all of the issued shares of the Corporation;

AND WHEREAS the Corporation and the Subsidiaries (together the “**Corporations**”) are the successors to the Welland Hydro-Electric Commission;

AND WHEREAS the Corporation’s business (the “**Business**”) is integral to the well-being and infrastructure of the City of Welland;

AND WHEREAS the Business is subject to the provisions of the *Electricity Act, 1998* and the *Ontario Energy Board Act, 1998* being Schedules A and B, respectively, to the *Energy Competition Act, 1998, S.O.*, c.15, as such statutes may be amended or re-enacted from time to time, to the regulations made pursuant to these statutes and to the various regulatory requirements of the Ontario Energy Board;

AND WHEREAS the Shareholder wishes to establish certain principles of governance relating to the Corporations and to set forth those matters which may be undertaken by the Corporations only with the approval of the Shareholder;

AND WHEREAS the Shareholder issued an Amended and Restated 2004 Shareholder Declaration containing all amendments to this Shareholder Declaration to December 21, 2004;

AND WHEREAS the Shareholder issued an Amended and Restated 2005 Shareholder Declaration containing all amendments to this Shareholder Declaration to December 6, 2005;

AND WHEREAS the Shareholder issued an Amended and Restated 2006 Shareholder Declaration containing all amendments to this Shareholder Declaration to May 9, 2006;

AND WHEREAS the Shareholder issued an Amended and Restated 2007 Shareholder Declaration containing all amendments to this Shareholder Declaration to May 1, 2007;

AND WHEREAS the Shareholder issued an Amended and Restated 2010 Shareholder Declaration containing all amendments to this Shareholder Declaration to June 8, 2010;

AND WHEREAS the Shareholder issued an Amended and Restated 2011 Shareholder Declaration containing all amendments to this Shareholder Declaration to June 14, 2011;

AND WHEREAS it is desirable to evidence further amendments in this Shareholder Declaration and to restate this Shareholder Declaration as hereinafter set forth;

NOW THEREFORE THIS DIRECTION AND DECLARATION WITNESSES:

ARTICLE 1 - INTERPRETATION

1.1 Definitions

Wherever used in this Shareholder Declaration, unless the context requires otherwise, the following terms shall have the respective meanings ascribed to them below.

“**Acquisition Threshold**” shall have the meaning set out in Subsection 9.12;

“**Act**” means the *Electricity Act, 1998* (Ontario);

“**Board**” means the board of directors of the Corporation;

“**Business Plan**” means a five year business plan and budget for the Corporation and the Subsidiaries prepared and approved in accordance with Section 10.1;

“**Chair**” means the chair of the Board;

“**Clerk**” means the Clerk of the City of Welland;

“**Corporation**” means Welland Hydro-Electric Holding Corp., incorporated pursuant to Section 142 of the Act;

“**Council**” means the city council of the Shareholder;

“**Day-To-Day Business Transactions**” means power bill payments, wholesale and retail customer rebates, customer deposits, rate setting and rate riders; receivable payments; revenues and expenditures; depreciation; taxes and payment in lieu of taxes; budget and capital program payments, dividend payments; loan payments; bank transactions and payroll and related expenditures.

“**Distribution Company**” means Welland Hydro-Electric System Corp. and any other Subsidiary that carries on the business described in Section 3.1(a) and that owns any distribution system, structures, equipment or property used for that purpose;

“**Financial Statements**” means, for any particular period, audited or unaudited (as stipulated in this Declaration), consolidated or unconsolidated (as stipulated in this Declaration), comparative financial statements of the Corporation consisting of not less than a balance sheet, a statement of income and retained earnings, a statement of changes in financial position, a report or opinion of the Auditor (in the case of audited Financial Statements) and such other statements, reports, notes and information prepared in accordance with generally accepted accounting principles (consistently applied) and as are required in accordance with any applicable law;

“**Nominating Committee**” means a committee of the Board established by the Board for the purpose set out in Subsection 5.9;

“**Independent Director**” means an individual who meets criteria as set out in section 2.1.3 of the Affiliate Relationship Code, unless they are: (a) a shareholder, director, officer or employee of an affiliate; (b) where the affiliate is a municipality, the mayor, or a member of the municipal

council, a member of a “local board” as defined in the Municipal Act, 2001 or an employee of the municipality; and (c) an employee of the distributor.

“**IMO**” means the Independent Electricity Market Operator;

“**Mayor**” means the Mayor of the Corporation of the City of Welland;

“**Minor Acquisition**” shall have the meaning set out in Subsection 9.12;

“**Minor Transaction**” shall have the meaning set out in Subsection 9.12;

“**OBCA**” means the *Business Corporations Act* (Ontario);

“**OEB**” means the Ontario Energy Board;

“**President**” means the president and chief executive officer of the Corporation;

“**Private Directors**” shall have the meaning set out in Subsection 5.2;

“**Services Company**” means Welland Hydro-Energy Services Corp. and its subsidiaries, Welland WiFi Corp., and Welland Solar Corp., and any other Subsidiary that carries on the business described in Section 3.1(b) hereof;

“**Shareholder**” means the Corporation of the City of Welland;

“**Shareholder Declaration**” or “**Declaration**” means this shareholder declaration;

“**Shareholder Representative**” shall have the meaning set out in Subsection 6.1;

“**Subsidiaries**” means the subsidiary corporations (as defined in the OBCA) of the Corporation;

“**Subsidiary**” means, with respect to the Corporation, any body corporate of which more than 50% of the outstanding securities of any class carrying exercisable voting rights are beneficially owned, directly or indirectly, by the Corporation, and includes any body corporate in like relation to a Subsidiary. The Subsidiaries are Welland Hydro-Electric System Corp., Welland Hydro Energy Services Corp., Welland WiFi Corp. and Welland Solar Corp.

“**Transaction**” means a binding commitment, contract or agreement, excluding Day-To-Day Business Transactions.

“**Transaction Threshold**” shall have the meaning set out in Subsection 9.12; and

“**Vice-Chair**” means the vice-chair of the Board.

1.2 Calculation of Time

In this Declaration, a period of days will be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. (Welland time) on the last day of the period. If, however, the last day of the period does not fall on a business day, the period will terminate at 5:00 p.m. (Welland time) on the next business day.

1.3 Paramountcy

In the event of any inconsistency between the terms of this Declaration and the terms of the articles or the by-laws of the Corporation or any of its Subsidiaries, the terms of this Declaration shall prevail to the extent of the conflict.

ARTICLE 2 - EXPECTATIONS AND PRINCIPLES

2.1 Purposes

The purposes of this Declaration are as follows:

- (a) subject to the Board's authority to manage or supervise the management of the business and affairs of the Corporations, to provide the Board with the Shareholder's expectations relating to the principles of governance and other fundamental principles and policies regarding the Business;
- (b) to inform the residents of the City of Welland of the Shareholder's fundamental principles regarding the Business; and
- (c) to set out the accountability, responsibility and relationship between the Board and the Shareholder.

Except as provided in Article 6 and Article 9 hereof, this Declaration is not intended to constitute a unanimous shareholder declaration under the OBCA or to formally restrict the exercise of the powers of the Board.

2.2 Shareholder Expectations

The Shareholder expects that the Board will establish policies and practices to:

- (a) develop and maintain a prudent financial and capitalization structure for the Corporation and its Subsidiaries consistent with OEB benchmarks and sound financial principles and established on the basis that the Corporation and its Subsidiaries are intended to be self-financing entities;
- (b) establish just and reasonable rates for the regulated Distribution Company of the Corporation, or any of its Subsidiaries, which are:
 - (i) as permitted by the Ontario Energy Board;
 - (ii) intended to preserve the value of the Corporation and its Subsidiaries; and
 - (iii) consistent with the encouragement of economic development and activity within the City of Welland;
- (c) provide service with reliability and service quality consistent with Ontario electric utility standards of utilities of comparable size;

- (d) provide the Shareholder with a return on equity for the regulated Distribution Company that is zero or as close to zero as is practically possible consistent with ensuring that there is adequate capital to pay for new investment without borrowing (or with minimum debt) as capital is required, and is consistent with maintaining just and reasonable rates;
- (e) manage all risks related to the business conducted by the Corporation and its Subsidiaries, through the adoption of appropriate risk management strategies and internal controls consistent with industry norms; and
- (f) develop a long range strategic plan for the Corporation and its Subsidiaries which is consistent with the maintenance of a viable, competitive business and preserves the value of the Business.

2.3 Principles

The following principles will govern the operations of the Corporations:

- (a) The Business is integral to the well being and the infrastructure of the City of Welland. The Corporation recognizes that it is in the best interests of the Corporations and the community of stakeholders whom the Business affects that the Corporations conduct their affairs:
 - (i) on a commercially prudent and efficient basis;
 - (ii) in a manner consistent with the energy policies as may be established by the Shareholder from time to time;
- (b) The Distribution Company will provide, a reliable, effective and efficient electricity distribution system.
- (c) Distribution rates applicable to customers of the Distribution Company will be approved by the Board to be fair to all classes of customers and to achieve zero or near-zero return in accordance with Section 2.2 above.
- (d) The Business is at all times subject to such licences, codes, policies, rules, orders, interim orders, approvals, consents and other actions of any Regulator.
- (e) The Distribution Company will provide its services with an emphasis on customer satisfaction, achieving, at a minimum, the customer service indicators and service reliability indicators accepted from time to time by the Ontario Energy Board.
- (f) The Corporations will operate in a safe and environmentally responsible manner.
- (g) The Distribution Company will promote energy conservation and environmental responsibility.
- (h) The Board is responsible for determining and implementing the appropriate balance among the foregoing principles and for causing the Corporations to conduct their affairs in accordance with the same.

ARTICLE 3 - BUSINESS OF THE CORPORATIONS

3.1 Business of the Corporations

Subject to the ongoing ability of the Corporations to meet the financial objectives of the Shareholder set out in this Declaration and the ability of the Board to demonstrate the same, the Corporations may engage in any of the following business activities:

- (a) the Distribution Company may engage only in the following business activities:
 - (i) providing standard supply service and promote energy conservation, as required by the OEB or other legislative authority,
 - (ii) distributing electricity and associated services to customers of the Distribution Company, its affiliates, and provided Welland residents receive preferential treatment, such others as may be licensed or authorized by the OEB to provide electrical or other utility services,
 - (iii) subject to Shareholder approval, new business activities, the principal purpose of which is to use more effectively the assets of the Distribution Company:
 - (iv) subject to Shareholder approval and applicable legislation, new business activities the principal purpose of which is to use more effectively the assets of the Corporation or any Subsidiary, as applicable, including providing meter installation and reading services, providing billing services, and business activities in the telecommunications area, and
 - (v) generating renewable energy and participating in renewable energy projects, energy storage, district heating and other similar business activities as permitted by applicable legislation.

- (b) the Services Company may engage only in the following business activities entry into each of which is subject to the approval of the Board of the Corporation:
 - (i) subject to Shareholder approval, retailing electricity;
 - (ii) renting or selling fibre-optic and/or wireless services, water heaters, plenum heaters, sentinel lights and traffic lights:
 - (iii) providing services relating to improving energy efficiency:
 - (iv) investigate and research business activities that develop or engage the ability of the Services Company to carry on any of the activities contemplated by the other subsections of this Section 3.1(b)
 - (v) subject to Shareholder approval, business activities that develop or engage the ability of the Services Company to carry on any of the activities contemplated by the other subsections of this Section 3.1(b); and

- (vi) generating renewable energy and participating in renewable energy projects, energy storage, district heating and other similar business activities as permitted by applicable legislation.

ARTICLE 4 – STANDARDS OF GOVERNANCE

- 4.1** As required by the OBCA, the Board and the board of directors of any Subsidiary shall supervise the management of the business and affairs of the Corporation and any Subsidiary respectively, and, in so doing, shall act honestly and in good faith with a view to the best interests of the Corporation or the Subsidiary respectively and shall exercise the same degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

ARTICLE 5 - BOARD OF DIRECTORS

5.1 Number of Directors

- (a) The Corporation shall be governed by the Board which shall consist of a minimum of three (3) and a maximum of nine (9) directors to be appointed by the Shareholder. The Shareholder shall, by special resolution, designate the number of members of the Board to hold office from time to time. On the date of this Declaration, the Board shall be comprised of four (4) directors.
- (b) The Distribution Company shall be governed by a board of directors which shall consist of a minimum of five (5) and a maximum of nine (9) directors to be appointed by the Shareholder. The Shareholder shall, by special resolution, designate the number of members of the board of directors to hold office from time to time. On the date of this Declaration, the board of directors shall be comprised of six (6) directors.
- (c) The Services Company and its Subsidiaries, Welland WiFi Corp., and Welland Solar Corp., shall be governed by a board of directors which shall consist of a minimum of three (3) and a maximum of nine (9) directors to be appointed by the Shareholder. The Shareholder shall, by special resolution, designate the number of members of the board of directors to hold office from time to time. On the date of this Declaration, the board of directors shall be comprised of four (4) directors.

5.2 Board Composition

- (a) The Board of the Corporation shall be comprised of four (4) members, which shall include:
 - (i) the Mayor;
 - (ii) the President and Chief Executive Officer of the Corporation;
 - (iii) two (2) directors, who shall not be members of Council (the “Private Directors”);

- (b) The board of directors of the Distribution Company shall be comprised of:
 - (i) the three directors of the Corporation except the Mayor;
 - (ii) one other member of Council, except the Mayor, (the “Councillor”); and
 - (iii) two independent directors who shall not be members of Council (the “Private Directors”).
- (c) The board of directors of the Services Company and Welland WiFi Corp. and Welland Solar Corp. shall be comprised of the four (4) directors of the Corporation.

5.3 Board of the Distribution Company

- (a) The board of the Distribution Company must at all times be comprised of at least three (3) directors with significant direct business experience and one (1) director with direct knowledge of community issues, as defined and evaluated by the board of the Distribution Company:
- (b) At least one third of the board of directors of the Distribution Company are to be independent directors from any affiliate of the Distribution Company (currently the Corporation and the Services Company).

5.4 Qualification of Directors

In addition to sound judgment and personal integrity, the qualifications of candidates for the Board or the board of directors of any Subsidiary may include:

- (a) awareness of public policy issues related to the Corporation or a Subsidiary, as applicable;
- (b) business expertise (including retail experience);
- (c) experience on boards of corporations or other organizations;
- (d) financial, legal, accounting and/or marketing experience;
- (e) regulated industry knowledge including, but not limited to, knowledge of municipal electric utilities;
- (f) knowledge and experience with risk management strategy; and
- (g) experience as a member of senior management in the service industry or educational institutions.

5.5 Residency

Preference will be given to qualified candidates for the Board who are residents of the City of Welland, however non-residents shall not be excluded from serving as Board members.

5.6 Chair and Vice-Chair Positions

The Board may elect its own Chair and Vice-Chair. However, neither the Mayor nor the President and Chief Executive Officer may serve as the Chair or Vice-Chair.

5.7 Term

- (a) The term for each member of the Board shall be as follows:
 - (i) The Mayor serving as a member of the Board shall serve for a term coincident with his or her term on Council.
 - (ii) The President and Chief Executive Officer shall serve as a member of the Board for a term coincident with his or her term as President and Chief Executive Officer.
 - (iii) Subject to a transition period, the two (2) Private Directors shall be appointed to serve as members of the Board for a Three year term.
- (b) The three (3) common directors on the board of directors of each of the Corporation, the Distribution Company and the Services Company will serve for the same term.
- (c) The term of no more than two (2) Private directors will end in any one year on the board of the Distribution Company and the term of no more than one director will end in any one year on the board of each of the Corporation and the Services Company.
- (d) The term of the two (2) independent directors on the board of the Distribution Company will not end in the same year.
- (e) The term of no more than one (1) director will end in any one year on the Board of the Corporation and the board of the Services Company.
- (f) If a member of the Board ceases to be a director for any reason, the Shareholder will fill the vacancy created thereby as soon as reasonably possible. If a member of the board of directors of any Subsidiary ceases to be a director for any reason, the Corporation will cause the vacancy to be filled by another director of the Corporation as soon as reasonably possible, subject to, and in compliance with the OEB Affiliate Relationships Code. All directors of the Corporation appointed to fill vacancies of the Board shall serve for the balance of the term of the director(s) replaced.
- (g) Any member of the Board may serve for successive terms as determined by the Shareholder.

5.8 Board Committees

- (a) The Board may establish committees of the Board in the Board's discretion. The Shareholder anticipates that the Board will establish the following committees:

- (i) Audit and Finance Committee to review financial results;
 - (ii) Governance Committee;
 - (iii) Nominating Committee to evaluate and recommend to the Shareholder potential candidates, for the boards of the Corporation and the Subsidiaries.
- (b) The board of directors of each of the Subsidiaries may establish committees in the discretion of each such board. The Shareholder anticipates that the board of the Distribution Company will establish the following committees:
- (i) Audit and Finance Committee to review financial results;
 - (ii) Governance Committee;
 - (iii) Operations, Health, Safety and Environment Committee;
 - (iv) Compensation Committee.

The Shareholder also anticipates that the board of the Services Company will establish the following committees:

- (i) Audit and Finance Committee to review financial results;
- (ii) Governance Committee.

5.9 Role and Composition of Nominating Committee

- (a) The Shareholder shall consider candidates for the Board and the boards of directors of the Subsidiaries nominated by the Nominating Committee of the Board, but shall not be obliged to select such candidates. It is expected that the Nominating Committee will develop a process to identify and evaluate potential Board candidates and candidates for the boards of directors of the Subsidiaries in order to recommend a slate of qualified candidates to the Shareholder.
- (b) The Nominating Committee will be composed of:
- (i) the Mayor;
 - (ii) the President and Chief Executive Officer of the Corporation;
 - (iii) one director from the Corporation selected by its Board;
 - (iv) and one independent director from the Distribution Company selected by its Board.

No Private Director shall be eligible to be a member of the Nominating Committee if his or her term as a board member is ending at the next Annual

Shareholder Meeting or at a Special Meeting of the Shareholder for appointing directors.

5.10 Directors' Compensation

The compensation of the Board and the board of directors of the Subsidiaries shall be approved by the Shareholder. The Chair of the Board and the Chair of the board of each of the Subsidiaries shall be compensated in the amount of six thousand dollars (\$6,000) per annum and two hundred and fifty dollars (\$250) for each Board and committee meeting attended, effective January 1, 2012. The Private Directors shall be compensated in the amount of five thousand dollars (\$5,000) per annum and two hundred dollars (\$200) for each Board and committee meeting attended, effective January 1, 2012. The Mayor and the Councillor shall be compensated in the amount of two thousand five hundred dollars (\$2,500) per annum and two hundred dollars (\$200) for each Board and committee meeting attended, effective January 1, 2012. Members of the Board who are also members of the board of directors of a Subsidiary shall not receive additional compensation for acting as a director of the Subsidiary. The President and Chief Executive Officer of the Corporation shall not be paid any annual fee or attendance fee for his or her role as a member of the Board. The annual compensation for board members will be increased annually by the same annual percentage increase as received by the members of Welland City Council. All board members (except the President and Chief Executive Officer of the Corporation) will receive a per diem of two hundred (\$200) per day, effective January 1, 2012, to ensure board members attend approved education sessions as prescribed by the Board and the board of directors of the Subsidiaries, from time to time.

5.11 Conflict of Interest Policy

The directors and officers of the Corporation and the Subsidiaries will strictly abide by the requirements of the OBCA and the conflict of interest rules set forth in the Bylaws of the Corporation and the Subsidiaries including any requirements in respect of disclosure and abstention from voting.

5.12 Confidentiality

The Shareholder and the directors and officers of the Corporation and the Subsidiaries (each a "**Receiving Party**") will ensure that no confidential information of the Shareholder or the Corporations is disclosed or otherwise made available to any person, except to the extent that:

- (a) disclosure to a Receiving Party's employees or agents is necessary for the performance of any Receiving Party's duties and obligations under this Declaration;
- (b) disclosure is required in the course of judicial proceedings or pursuant to law; or
- (c) the confidential information becomes part of the public domain (other than through unauthorized disclosure by the Receiving Party).

A detailed confidentiality policy consistent with the practices of corporate governance will be established by the Corporation and will form a part of the Bylaws of the Corporation;

5.13 Open Board Meetings

The Shareholder hereby directs that the meetings of the Board of Directors of the Corporation (and Welland Hydro-Electric System Corp.) are to be open to the public subject to the exceptions and procedures prescribed by the By-Laws of the Corporation (and Welland Hydro-Electric System Corp.)

ARTICLE 6 - DECISIONS OF THE SHAREHOLDER AND SHAREHOLDER REPRESENTATIVE

- 6.1** The Shareholder hereby designates the Mayor or the Mayor's representative and the Clerk, the Chief Administrative Officer or the City Manager as the legal representative of the Shareholder (the "**Shareholder Representative**") for purposes of conveying to the Board, pursuant to Subsection 6.2, any legal consent or approval required by this Shareholder Declaration or by the OBCA or otherwise.
- 6.2** Approvals or decisions of the Shareholder required pursuant to this Shareholder Declaration or the OBCA shall require a resolution or by-law of Council passed at a meeting of Council and shall be communicated in writing to the Board and signed by the Shareholder Representative.

ARTICLE 7 - MEETINGS AND ANNUAL RESOLUTIONS

Within eight (8) months after the end of each fiscal year of the Corporation:

7.1 Annual Report to Meeting of Council

The Board shall report to a meeting of Council and the Chair and the President shall attend such meeting and provide such information concerning the Corporation and its Subsidiaries as is appropriate, as determined by the Corporation.

7.2 Annual Resolutions:

- (a) The Shareholder shall consider candidates for the Board as proposed by the Nominating Committee and the appointment of the auditors of the Corporation and receive the audited financial statements of the Corporation for the last completed fiscal year.
- (b) The Shareholder, by resolution in writing signed by the Shareholder Representative in accordance with Section 6, shall appoint the necessary members of the Board and appoint the auditors for the Corporation and complete such other business as would normally be completed at an annual meeting of shareholders under the OBCA.
- (c) The Corporation, as the sole shareholder of the Subsidiaries, shall consider candidates for the board of directors of each of the Subsidiaries as proposed by the Nominating Committee and the appointment of the auditors of the Subsidiaries and receive the audited financial statements of the Subsidiaries for the last completed fiscal year.

- (d) The Corporation, as the sole shareholder of the Subsidiaries, by resolution in writing signed by the Shareholder Representative in accordance with Section 6 shall appoint the necessary members of the boards of each of the Subsidiaries and appoint the auditors for the Subsidiaries and complete such other business as would normally be completed at an Annual Meeting of Shareholders under the OBCA.

ARTICLE 8 - REPORTING ON MAJOR DEVELOPMENTS

- 8.1** The Board may from time to time report to Council on major business developments or materially significant or adverse results as the Board, in its discretion, considers appropriate and such reports may be received and considered by the Shareholder at a meeting of Council.
- 8.2** The board of a Subsidiary may request a meeting with Council to discuss any direction received from the Corporation that the board of the Subsidiary believes is not in the best interests of the Subsidiary. Prior to requesting a meeting with Council, the board of the Subsidiary will attempt to deal with the issue with the Corporation. If the board of the Subsidiary and the Corporation are not able to resolve the issue, the board of the Subsidiary will give prior written notice to the Corporation of its intention to request a meeting with Council to discuss the issue.
- 8.3** Council may, from time to time, request that a senior member of the Corporation's management and/or a member of the Board attend at a public meeting of Council and respond to questions raised by Council or the general public concerning the Corporation and/or its Subsidiaries.

ARTICLE 9 - MATTERS REQUIRING SHAREHOLDER APPROVAL

Without Shareholder approval given in accordance with Section 6, the Corporation or any Subsidiary, respectively, shall not:

Statutory Approval Rights

- 9.1** Change the name of the Corporation or a Subsidiary; add, change or remove any restriction on the business of the Corporation or a Subsidiary; create new classes of shares; or in any other manner amend its articles of incorporation or make, amend or repeal any by-law;
- 9.2** Amalgamate with any other corporation(s) other than amalgamations which may, under the OBCA, be approved by a resolution of directors;
- 9.3** Take or institute proceedings for any winding-up, arrangement, or dissolution of the Corporation or a Subsidiary;
- 9.4** Apply to continue as a corporation under the laws of another jurisdiction;
- 9.5** Sell or otherwise dispose of, by conveyance, transfer, lease, sale and leaseback, or other transaction, all or substantially all of its assets or undertaking;

- 9.6 Change the Auditor;
- 9.7 Make any change to the number of directors comprising the Board;
- 9.8 Enter into any transaction or take any action that requires shareholder approval pursuant to the OBCA.

Additional Approval Rights

- 9.9 Issue, or enter into any agreement to issue, any shares of any class, or any securities convertible into any shares of any class, of the Corporation or a Subsidiary;
- 9.10 Redeem or purchase any of its outstanding shares;
- 9.11 Acquire any electricity distribution business outside of the municipal boundaries of the Shareholder; and
- 9.12 Enter into any joint venture, partnership, strategic alliance or other venture or Transaction, including, without limitation, ventures in respect of the generation or co-generation of electricity, which would require an investment, or which would have a financial impact in any fiscal year greater than (i) 10% of the net book value of the assets of Welland Hydro-Electric System Corp; (ii) \$200,000 for each of the Corporation; Welland Hydro Energy Services Corp., Welland WiFi Corp, and Welland Solar Corp. (each a “Transaction Threshold”). The amount of all Transactions which the Corporation or a Subsidiary concludes under this Subsection 9.12 and which is below the applicable Transaction Threshold (“Minor Transaction”) shall be added together, and when any subsequent proposed Transaction would exceed the applicable Transaction Threshold when added to the aggregate of the Minor Transactions in any fiscal year, Shareholder approval shall be required as described herein, notwithstanding that the proposed Transaction may not, by itself, exceed the applicable Transaction Threshold;
- 9.13 Make any decision that would materially adversely affect the tax or regulatory status of the Corporation or any of its Subsidiaries;
- 9.14 Enter into any business activity not permitted under Section 3.1 hereof;
- 9.15 Provide any financial assistance, whether by loan, guarantee or otherwise, to any director or officer of the Corporation or of any Subsidiary or Associate;
- 9.16 Establish a new Subsidiary;
- 9.17 Change the remuneration for the members of the Board as provided for in Section 5.10 hereof.

ARTICLE 10 - REPORTING

10.1 Business Plan

Not later than sixty (60) days prior to the end of each fiscal year, the Board will approve and submit to the Finance Department of the Shareholder (the “**Finance Department**”) a business

plan for the Corporations for the next five fiscal years (the “**Business Plan**”). The Business Plan will be prepared on a consistent basis with the Business Plan then in effect. The Corporation will carry on its business and operations in accordance with the Business Plan which will include, in respect of the period covered by such plan:

- (a) the strategic direction and any new business initiatives which the Corporations will undertake;
- (b) an operating and capital expenditure budget for the next fiscal year and an operating and capital expenditure projection for each fiscal year thereafter, including the resources necessary to implement the draft business plan;
- (c) pro forma consolidated and unconsolidated financial statements showing at a minimum the projected annual revenues and expenditures for each business activity for each fiscal year for the Corporation and each of the Subsidiaries;
- (d) any material variances in the projected ability of any business activity to meet or continue to meet the financial objectives of the Shareholder; and
- (e) any material variances from the Business Plan then in effect.

10.2 Quarterly Reports

Within 45 days after the end of each fiscal quarter, the Board will prepare (on a consistent basis with the previous fiscal quarter) and submit to the Finance Department a quarterly report. The quarterly report will include, in respect of the immediately preceding fiscal quarter:

- (a) quarterly unaudited consolidated and unconsolidated Financial Statements;
- (b) such explanations, notes and information as is required to explain and account for any variances between the actual results from operations and the budgeted amounts set forth in the current Business Plan, including any material variances in the projected ability of any business activity to meet or continue to meet the financial objectives of the Shareholder;
- (c) information that is likely to materially affect the Shareholder’s financial objectives or energy policies;
- (d) information that is likely to materially affect customers’ perceptions or opinions regarding the Corporations;
- (e) information regarding any matter, occurrence or other event which is a material breach or violation of any law; and
- (f) any such additional information as the Shareholder may specify from time to time.

10.3 Access to Records

The Shareholder may, by resolution, appoint a representative who shall have unrestricted access to the books and records of the Corporation and the Subsidiaries during normal business hours. In addition to any such appointees, the Treasurer, the Chief Administrative Officer and/or the City Manager of the City of Welland are, by virtue of their offices, representatives. All such representatives shall treat all information of the Corporations with the same level of care and confidentiality as any confidential information of the Shareholder.

10.4 Audit

The Corporation's consolidated and unconsolidated Financial Statements will be audited annually. The auditor of the Corporation is Deloitte & Touche LLP, Chartered Accountants (the "Auditor").

10.5 Accounting

The Corporation will, in consultation with the Auditor, adopt and use the accounting policies and procedures which may be approved by the Board from time to time and all such policies and procedures will be in accordance with generally accepted accounting principles and applicable regulatory requirements.

10.6 Annual Financial Statements

The Board will cause the Auditor to deliver, as soon as practicable and in any event within one hundred and twenty (120) days after the end of each fiscal year, the audited consolidated Financial Statements of the Corporation for consideration by the Shareholder.

ARTICLE 11 - FINANCIAL PERFORMANCE

11.1 Financial Performance

The Board will implement and maintain policies to:

- (a) Capital Structure - develop and maintain a prudent financial and capitalization structure for the Corporation and its Subsidiaries consistent with OEB benchmarks and sound financial principles, established on the basis that the Corporation and its Subsidiaries are each intended to be self-financing entities on an ongoing basis;
- (b) Distribution Rates - ensure the establishment of just and reasonable rates for the regulated distribution business of the Corporation, or any of its Subsidiaries, which are:
 - (i) as permitted by the OEB;
 - (ii) intended to preserve the value of the Corporation and its Subsidiaries; and
 - (iii) consistent with the encouragement of economic development and activity within the Shareholder;

- (c) Returns - preserve Shareholder value by providing a high level of service reliability and quality, meeting revenue and expenditure targets consistent with prudent and efficient financial goals, and generating a return on equity as provided for in Section 2.2(d) hereof.
- (d) Risk Management - manage all risks related to the business conducted by the Corporation and its Subsidiaries, through the adoption of appropriate risk management strategies and internal controls consistent with industry norms.

11.2 Operation Policy

The Corporations will:

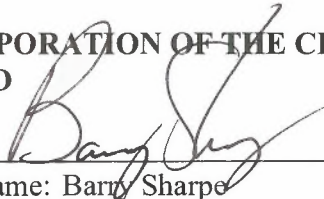
- (a) employ the most efficient cost structure available for like businesses;
- (b) mandate the creation and implementation of cost reduction programs to ensure that capital and labour costs are minimized; and
- (c) operate at a level of reliability and service quality which at least meets OEB requirements and is equal to or better than the average reliability and service levels of other Ontario utilities of comparable size.


ARTICLE 12- REVISIONS TO THIS DECLARATION

The Shareholder acknowledges that this Shareholder Declaration may be revised from time to time as circumstances may require and that the Shareholder will consult with the Board prior to completing any revisions and will promptly provide the Board with copies of such revisions.

DATED at Welland, Ontario as of this 14th day of June, 2011.

THE CORPORATION OF THE CITY OF WELLAND

Per: 
Name: Barry Sharpe
Title: Mayor

Per: 
Name: Laura Bubanko
Title: Deputy City Clerk
We have the authority to bind the corporation